

Appl. No. 09/936,362
Reply to Office Action of March 26, 2003

Remarks/Arguments:

According to the office action, mailed March 26, 2003 (hereinafter, "Office Action"), claims 1 to 29 are currently pending and under examination. In the Office Action, the Examiner made these claims subject to a restriction requirement and required the Applicants to elect a single invention to which the claims must be restricted. In particular, the Examiner alleged that the Instant Application contained the following inventions or groups of inventions:

Group I, claims 1-14, 23-27 and 29, drawn to isolated polynucleotides, host cells and vectors comprising said polynucleotides and methods of using said nucleotides to produce proteins.

Group II, claims 16-22 (only as they pertain to Parts A-C of claims 16), drawn to immunogenic compositions comprising polynucleotides and methods of inducing protection against disease through the administration of said polynucleotides.

Group III, claim 15 drawn to a polypeptide.

Group IV, claims 16-22 (only as they pertain to Part D of claim 16), drawn to immunogenic compositions comprising a polypeptide and methods of inducing protection against disease through the administration of said polypeptide.

In each group above, the Examiner required Applicants to choose only one immunogenic composition to be searched and stated that the given requirement was not a species election, but a restriction because each amino acid sequence represented a completely different product.

Remarks:

1. **Fees.**

Please charge any fees, in excess of the Petition fee required, or credit any fees overpaid to Deposit Account No. 50-0244.

2. **Amendments to the Claims.**

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Claims 1 to 15 and 23-29 were canceled without prejudice or disclaimer, as they are non-elected subject matter.

Claim 16 was amended without prejudice or disclaimer and to further Applicants' business interests and the prosecution of the present application. The amendment to claim 16 is supported. Claim 16, part D refers to claims 5, 6 and 9. As amended, Claim 16 deleted parts A-C, and part D was amended so that limitations of claims 5, 6 and 9 were incorporated into it. Support for the amendment adding part c to claim 16 is found at page 46, lines 1-3 and Figure 8B of the Instant Application.

The amendment to claim 16 as discussed above does not add any new matter. Applicants reserve the right to prosecute any canceled or amended subject matter in a later application.

3. Election.

Applicants elect for prosecution the invention of Group IV, claims 16-22 (only as they pertain to Part D of claim 16), drawn to immunogenic compositions comprising a polypeptide and methods of inducing protection against disease through the administration of said polypeptide. In particular, Applicants elect the immunogenic composition comprising a polypeptide (also referred in the Instant Application as a "Hia protein) producible by a strain of *E. coli* transformed by an expression vector comprising an isolated and purified nucleic acid molecule encoding either a full length or N-truncated *Haemophilus influenzae* adhesion (Hia) protein of non-typeable strain 33 of *Haemophilus influenzae*. For searching purposes, the polypeptide (or Hia protein) is encoded by the nucleic acid molecule comprising:

the DNA sequence shown in Figure 18 (SEQ ID No: 23), or
a DNA sequence encoding the protein having the amino acid sequence shown in Figure 18 (SEQ ID No: 24), or
a DNA sequence encoding an N-truncated Hia protein which is amplifiable by the pair of nucleotides, SEQ ID No: 60 and SEQ ID No: 18, or
a DNA sequence encoding an N-truncated Hia protein of non-typeable strain 33 of *Haemophilus influenzae* expressible as inclusion bodies, said N-truncated protein having the ability to bind to human epithelial cells, or
a DNA sequence encoding a V38 N-truncated Hia protein of non-typeable strain 33 of *Haemophilus influenzae*.

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Conclusions.

The amendments and remarks submitted herein are intended to be fully responsive to the outstanding Office Action, to advance the prosecution of the present invention, and to place the application in condition for allowance.

The Applicants respectfully request consideration and entry of this paper. The Applicants also respectfully request reconsideration of this application, as amended, and issuance of a timely Notice of Allowance in this case. Should the Examiner have any questions concerning this application, she is invited to contact the undersigned at (570) 839-5537

Respectfully submitted,

Date: MARCH 4, 2005

By: Robert Yoshida

Robert Yoshida
Reg. No 54,941

Aventis Pasteur, Inc.
Intellectual Property - Knerr Building
One Discovery Drive
Swiftwater, PA 18370
Telephone: (570) 839-5537
Facsimile: (570) 895-2702